

# **CITY OF NEW YORK**

## **MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE (M/WBE) PROGRAM**

### **First Quarter of Fiscal Year 2020**

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**Compliance Report covering July 1, 2019 – September 30, 2019**

**Daniel Symon  
City Chief Procurement Officer  
Mayor's Office of Contract Services  
253 Broadway, 9th Floor  
New York, New York 10007**

**Gregg Bishop  
Commissioner  
NYC Department of Small Business Services  
1 Liberty Plaza, 11th Floor  
New York, NY 10006**

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## **Introduction**

This report describes the City's efforts to ensure minority and women-owned businesses have greater access to public contracting opportunities. The reporting period covers program accomplishments for the first quarter of Fiscal Year 2020 (July 1, 2019 – September 30, 2019). As per the New York City Administrative Code §6-129(l)1, the report is jointly submitted by the Director of the Mayor's Office of Contract Services (MOCS), as City Chief Procurement Officer, and by the Commissioner of the Department of Small Business Services (SBS).

This report summarizes program activity, prime contract, and subcontract utilization data for City-certified Minority and Women-Owned Business Enterprises (M/WBEs) and Emerging Business Enterprises (EBEs), as well as additional data specified in Section 6-129 of the New York City Administrative Code. The report covers prime contracts that were registered, and subcontracts approved in the first quarter of FY 2020, including procurements that were solicited before LL 1 became effective and are subject to LL 129.<sup>1</sup> The City's M/WBE program is led by J. Phillip Thompson, Deputy Mayor for Strategic Initiatives and Citywide M/WBE Director, and administered in partnership with the Mayor's Office of M/WBEs, SBS and MOCS.

In addition to the requirement that the City find vendors responsible, State law also requires that most contracts be awarded to the lowest responsive bidder or the best proposer. SBS has worked aggressively to expand opportunities for minority and women-owned firms by connecting them to a comprehensive range of programs that provide procurement technical assistance and capacity building support, as well as other resources to help them navigate and compete in the public procurement marketplace. During the first quarter of FY 2020, M/WBEs were awarded over \$281 million in prime contracts subject to the M/WBE program and over \$78 million in eligible subcontracts. The City achieved a combined prime and subcontract utilization of 28%.

## **Expanding the Base of Certified Firms**

SBS continues to increase the participation of M/WBE firms in City contracting by expanding its base of certified businesses. During the certification process, a company's ownership and management structure is thoroughly reviewed to ensure the applicant performs the key functions of the business. Minority and

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<sup>1</sup> LL 1 amended the law that created the City's M/WBE program, LL 129 of 2005. The new law took effect on July 1, 2013.

women-owned firms who choose not to certify with the City are neither tracked nor measured in the City's performance reporting. The NYC Online Certification Portal ([www.nyc.gov/certifyonline](http://www.nyc.gov/certifyonline)) allows M/WBE firms to certify and recertify online, check the status of applications, and update their business profiles to better promote themselves to buyers. In addition to the regular certification workshops, during the reporting period, SBS continued to hold one-on-one certification application review sessions. These sessions help ensure that firms submitted complete and quality application packages, reduced back and forth and delays, and increased the chances of obtaining certification. In the first quarter of FY 2020, SBS conducted 7 certification workshops and application review sessions for 73 businesses.

Various community partners help extend the reach of SBS certification outreach efforts. Businesses receive assistance in applying for certification from these organizations, including the New York City Council-funded community-based groups that comprise the M/WBE Leadership Association, and the SBS network of Business Solutions Centers located throughout the five boroughs. This helps to ensure a higher quality application, making the submission and the certification review process easier and simpler. Between July and September 2019, SBS certified 402 new M/WBEs and recertified 157 M/WBEs, bringing the total number of City-certified companies to 9,388 as of September 30, 2019. Our community partners help support the business growth of M/WBEs with marketing workshops, networking events, and business development services. During the reporting period, SBS collaborated with local development corporations, trade associations, industry membership organizations, and local chambers of commerce on 33 events to spread the word about the benefits of certification and the range of capacity-building services available citywide to help businesses grow.

### **Emerging Business Enterprise Program**

Local Law 12 of 2006 created the Emerging Business Enterprise ("EBE") program directed at expanding procurement opportunities to disadvantaged businesses. Although similar outreach approaches and capacity-building initiatives were and continue to be undertaken by SBS to successfully implement the M/WBE and EBE programs (SBS often targets potential M/WBE and EBE groups simultaneously), the outcomes of such measures are quite different. Similar to the federal DBE program, eligibility for EBE certification under the City's program requires that applicants satisfy a two-prong test of economic disadvantage and social disadvantage. Where social disadvantage is presumed for M/WBEs and further

evaluation of social or economic disadvantage criteria is not required for those individuals, the City's EBE program criteria relies on individual and specific determinations of an applicant's disadvantage. As of September 30, 2019, there were 14 certified EBE companies.

Unlike the M/WBE program, limited participation in the EBE program has made it difficult for City agencies to set goals on contracts. During the reporting period, EBEs were awarded a total of \$547,522 in all types of prime contracts and subcontracts.

SBS continues to strive towards increasing participation in the EBE program through a wide range of outreach efforts regularly conducted with businesses and community partners. Once increased participation in the EBE program is achieved, City agencies will have sufficient availability of certified EBE firms needed to set feasible contract goals.

### **Locally-based Enterprise Program**

Although the Locally Based Enterprises (LBE) program is not referenced in Administrative Code §6-129, LBE is a certification category administered by SBS, and the applicability of the LBE program in City procurement is impacted by the M/WBE program. As set forth in Administrative Code §6-108.1, the LBE program is designed to promote the growth of small construction firms through greater access to contracting opportunities with the City. Generally, the program requires agencies to utilize LBEs as a prime or subcontractor on specific construction contracts. However, the number of contracts subject to the LBE program has substantially decreased in recent years due to other goal-setting programs established by the City, State and federal governments. Under the LBE program rules, contracts are excluded from the program if they are federally or State funded and subject to their requisite goal programs. Federally funded construction projects are generally subject to the Disadvantaged Business Enterprise program, and State funded contracts are subject to other goals requirements as well, including Article 15-A of the New York State Executive Law. As many City construction contracts are federally and State funded and subject to subcontracting goals under those programs, they are not covered by the LBE program. With the creation of the City's M/WBE program, M/WBE subcontracting goals are applied to City funded construction contracts in lieu of LBE goals. Accordingly, this further limits the applicability of the LBE requirements.

During the reporting period, SBS certified one firm as LBEs, bringing the total number of LBE certified firms to 18 as of September 30, 2019. Many of our LBEs are also certified as M/WBEs and can be considered for subcontracting opportunities on City construction projects with M/WBE goals. During the reporting period, LBEs were awarded \$693,116 in all types of prime contracts and subcontracts.

## **Selling to Government**

SBS offers selling to government services that help M/WBEs navigate the City's procurement system. Services are provided through a combination of workshops and one-on-one assistance. To be an effective bidder on City contracts, an M/WBE must understand the City's procurement rules and how to respond to solicitations. M/WBEs must also maintain the most up-to-date information on their profile in the SBS Online Directory of Certified Businesses ([www.nyc.gov/buycertified](http://www.nyc.gov/buycertified)) and other City procurement systems. In the first quarter of FY 2020, SBS held a total of 8 workshops attended by a total of 94 participants to help M/WBEs build knowledge and understanding of the City's procurement rules, City's procurement portals, how to effectively respond to solicitations, and best practices in contract management.

Also, during the reporting period, 517 M/WBEs were supported through 875 instances of one-on-one technical assistance on submitting the most competitive bids and proposals, navigating government procurement, and successfully performing on contracts with the City.

SBS also works with the New York City Council through the M/WBE Leadership Association to provide certified firms with more capacity-building services, including help applying for loans and surety bonds, preparing bids and proposals, and marketing to both the public and private sector. During the reporting period, member organizations sponsored 21 events, provided 275 one-on-one assistance sessions, assisted with 24 loan applications, and awarded 12 loans to M/WBEs.

## **Capacity Building**

SBS administers a set of capacity-building programs and services for M/WBEs and small businesses that are designed to help firms better bid on, win, and perform on City contracts.

**Bond Readiness** provides certified construction and trade companies with financial management skills to help them secure or increase surety bonds necessary to compete on City contracts. The program offers a 12-session cohort conducted over 24 weeks that provides classroom instruction, agency participation, training and one-on-one assistance, as well as introductions to a network of surety agents. Firms are encouraged to bid on City contract opportunities where appropriate, while applying for pre-approval for bonding during the program. During the reporting period, 42 unique firms were accepted into the 2019-20 cohort.

**NYC Construction Mentorship** provided certified construction, trade and related professional services firms with education, training, and technical assistance to help them build capacity, better understand the City solicitation process, and strengthen business operations with the goal of bidding on City contracting opportunities. After the Spring 2019 cohort, the program went on hiatus while new programming is being developed. However, a construction industry alumni event series continued to bring the graduates from the NYC Construction Mentorship and Bond Readiness programs together for networking, continued learning, and connections to potential primes and agency buyers. During the reporting period, 23 graduates attended a Construction Programs Alumni Event.

The **Corporate Alliance Program's (CAP) NYCEO M/WBE Mentorship Program** helps City-certified M/WBE goods and services firms build capacity through one-on-one and group mentoring and learning seminars. During an eight-month mentoring period, the Mentees work on specific growth goals for their businesses under the counseling of their Mentor and peer mentoring from their fellow group Mentees. Cohort firms also attend two to three learning seminars, one of which is a procurement panel of corporate partners. During the reporting period, the Program kicked off its fifth cohort of 18 mentees who were initially matched and grouped with seven mentors from entrepreneur organizations at CAP partner Experis' midtown offices.

**Strategic Steps for Growth** is an eight-month executive education program designed for M/WBEs, offered in partnership with the NYU Stern School of Business' W.R. Berkley Innovation Lab and NYU Division of Operations. The program provides participants with a new professional network, including business experts, university professors, and other business owners, and offers guidance for every aspects of business operations as well as a focus on capacity building for City and government contract opportunities for the enrolled M/WBEs. Participants learn the strategic skills needed to run a growing company and create a

custom, three-year growth plan for their businesses. In July of the reporting period, eight M/WBE firms graduated as part of the 2019-2020 cohort.

New York City Economic Development Corporation and SBS launched the **Contract Financing Loan Fund** in FY 2017. The Loan Fund enhances the ability of business owners to access the capital they need to win, take on and perform successfully on NYC contracts, and reduces the cost of capital to a 3% annual interest rate. During the reporting period, \$2,275,000 had been awarded through the Loan Fund.

## Program Compliance

To ensure that all agency staff responsible for purchasing activities are knowledgeable about the M/WBE program and their agency’s goals, SBS and MOCS conduct agency training sessions at the Citywide Training Center and specific trainings at agency offices. During the first quarter of FY 2020, 63 procurement professionals from 25 agencies attended two training sessions. The topics included Local Law 1 implementation, strategies and best practices used to identify M/WBEs for contract opportunities, Online Directory training, and enhancing M/WBE procedures in all contract areas.

In the reporting period, the Director of the City’s M/WBE program, Deputy Mayor for Strategic Policy Initiatives J. Phillip Thompson and M/WBE Senior Advisor and Director of Mayor’s Office of M/WBE Jonnel Doris held the first quarterly compliance meeting with agency commissioners and M/WBE officers to discuss utilization and agency initiatives to increase M/WBE performance. The meeting was held on September 12, 2019 and was attended by 84 attendees representing 39 agencies.

## Qualified Joint Venture Agreements

There was one contract subject to the M/WBE program awarded to a qualified joint venture in the first quarter of FY 2020.

Industry	Total Contract Value	# of contracts	Ethnicity	Value to MWBE	%
Construction Services	\$6,280,000	1	Male- Owned MBE- Hispanic	\$2,826,000.00	45

## **Efforts to Reduce or Eliminate Barriers to Competition**

Since the implementation of the M/WBE program, the City continues to undertake a number of efforts to reduce barriers for M/WBEs and small businesses that are competing for contracts and currently doing business with the City. As mentioned above, SBS is operating a bond readiness program to help firms secure surety bonds for larger City construction projects. SBS launched the Bond Collateral Assistance Fund, funded with \$10 million, to help small businesses and M/WBEs secure surety bonds to perform on City Contracts. Since program launch, two collateral assistance awards have been made for a total of \$800,000.

To make it easier to do business with the City, agencies are required to post all competitive solicitation materials through the City Record Online, allowing vendors to identify opportunities and download relevant materials from one online location. SBS also continues to assist companies with expediting their payment requests from prime contractors and City agencies.

## **Prime Contract M/WBE Utilization**

Table 1 below summarizes prime contracts awarded by City agencies during the first quarter of FY 2020. M/WBEs were awarded over \$281 million in prime contracts amounting to 24% of all such awards during this reporting period. The prime contracts in this table include industries and awards pursuant to methods subject to the M/WBE program.

**Table 1 - FY 2020 Q1 - Prime Contracts Utilization by Industry**

Industry/Size Group	M/WBE			Total	
	Count	Contract Value	%	Count	Contract Value
<b>Construction Services</b>	<b>926</b>	<b>\$149,979,331</b>	<b>27%</b>	<b>1,635</b>	<b>\$548,368,128</b>
Micro Purchase <sup>2</sup>	884	\$1,635,780	62%	1,538	\$2,618,332
Small Purchase <sup>3</sup>	14	\$802,538	79%	17	\$1,013,947
>\$100K, <=\$1M	6	\$3,355,538	52%	10	\$6,395,568
>\$1M, <=\$5M	15	\$33,469,138	36%	37	\$92,101,593
>\$5M, <=\$25M	6	\$85,295,928	22%	31	\$388,468,087
>\$25M	1	\$25,420,408	44%	2	\$57,770,601
<b>Goods</b>	<b>1,528</b>	<b>\$18,940,589</b>	<b>54%</b>	<b>3,604</b>	<b>\$35,035,195</b>
Micro Purchase	1,368	\$9,731,725	47%	3,379	\$20,893,407
Small Purchase	160	\$9,208,864	65%	225	\$14,141,787
<b>Professional Services</b>	<b>82</b>	<b>\$68,246,432</b>	<b>19%</b>	<b>280</b>	<b>\$365,632,296</b>
Micro Purchase	47	\$488,709	34%	168	\$1,446,729
Small Purchase	13	\$999,402	52%	32	\$1,912,592
>\$100K, <=\$1M	8	\$1,511,429	23%	19	\$6,629,496
>\$1M, <=\$5M	10	\$34,417,147	31%	36	\$111,331,451
>\$5M, <=\$25M	4	\$30,829,746	13%	25	\$244,312,028
>\$25M	0	\$0	0%	0	\$0
<b>Standardized Services</b>	<b>224</b>	<b>\$44,031,132</b>	<b>21%</b>	<b>1,246</b>	<b>\$211,036,958</b>
Micro Purchase	158	\$1,141,715	17%	1,113	\$6,917,480
Small Purchase	45	\$2,760,033	62%	70	\$4,479,053
>\$100K, <=\$1M	14	\$3,146,851	23%	33	\$13,496,836
>\$1M, <=\$5M	4	\$10,368,012	22%	19	\$46,930,086
>\$5M, <=\$25M	3	\$26,614,521	25%	10	\$107,544,450
>\$25M	0	\$0	0%	1	\$31,669,053
<b>Total</b>	<b>2,760</b>	<b>\$281,197,484</b>	<b>24%</b>	<b>6,765</b>	<b>\$1,160,072,577</b>
Micro Purchase	2,457	\$12,997,929	41%	6,198	\$31,875,948
Small Purchase	232	\$13,770,837	64%	344	\$21,547,380
>\$100K, <=\$1M	28	\$8,013,818	30%	62	\$26,521,899
>\$1M, <=\$5M	29	\$78,254,297	31%	92	\$250,363,131
>\$5M, <=\$25M	13	\$142,740,195	19%	66	\$740,324,565
>\$25M	1	\$25,420,408	28%	3	\$89,439,654

Agencies are not required to apply participation requirements to certain types of contracts. See, NYC Administrative Code § 6-129(q) (1)-(7). Table 1 above and the subsequent discussion of M/WBE performance include those contracts that have been counted towards the City’s M/WBE program.

<sup>2</sup> Micropurchase is a purchase with a value of \$20,000 or less for goods and most services or \$35,000 or less for construction services.

<sup>3</sup> Small purchase is a purchase with a value between the micropurchase limits up to \$100,000. Purchases for goods and most services over \$20,000 up to \$150,000 made utilizing the M/WBE Noncompetitive Small Purchase Method, codified under Section 3-08 of the PPB Rules in November 2018, are also reflected within this table.

As required by §6-129 of the Administrative Code, the M/WBE performance data (see Appendices – Tables A - F)<sup>4</sup> is summarized separately for each of the following categories: MBE, WBE, minority women (certified as both MBE and WBE), and total M/WBE. MBEs include all minority-owned businesses, regardless of gender. WBEs include all women-owned businesses regardless of race.

In those areas of procurement where agencies have greater discretion to target procurements to M/WBEs (i.e., micro purchases and small purchases), M/WBE utilization remains strong. In the first quarter of FY 2020, M/WBEs were awarded nearly \$13 million worth of micro purchases, or 41% of the dollar value of all such awards. Additionally, for small purchases the M/WBE utilization rate was 64% of the dollar value of all such awards (approximately \$21.5 million awarded).

A total of 6,765 prime contracts were awarded during the first quarter of FY 2020. M/WBE utilization on prime contracts during the reporting period is detailed below. Highlights include M/WBEs being awarded:

- 30% of the value of contract awards valued between \$100,000 and at or below \$1 million (over \$8 million);
- 31% of the value of contract awards valued between \$1 million and at or below \$5 million (over \$78.3 million); and
- 19% of the value of contract awards valued between \$5 million and at or below \$25 million (over \$142.7 million).
- 28% of the value of contracts awards valued over \$25 million (nearly \$25.4 million).

Agency-by-agency and certification category details corresponding to Table 1 above are included in the Appendices to this report (Tables A - B).

Most prime contracts reflected in the data (except the professional services contracts, for example) are required by New York State law to be procured via competitive sealed bid. Under General Municipal Law (GML) § 103, agencies must, for the majority of the contracts covered by the program, accept the lowest responsible bid and may not give a bidder preference because of its M/WBE status. City agencies' efforts to achieve their M/WBE participation goals through prime contract awards are thus limited to such means as increased outreach and training aimed at encouraging M/WBEs to bid successfully on various procurements. Even for procurements not covered by GML § 103, such as professional services contracts, GML § 104-b precludes agencies from pursuing social policy goals unrelated to the procurement of goods and services,

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<sup>4</sup> Appendices - Tables A - <https://www1.nyc.gov/site/mocs/partners/m-wbe-appendices.page>

including M/WBE status. Thus, the citywide goals for prime contract awards must be viewed as aspirational, and agencies' performance may only be evaluated in terms of their efforts to make progress toward achieving the goals in light of the limited tools available to them for that purpose.

#### Prime Contracts with M/WBE Participation Goals

Under the M/WBE program, larger prime contracts with anticipated subcontracting are subject to participation goals and must be reported on pursuant to §6-129(l)(b)(i). During the reporting period, agencies awarded 131 new prime contracts subject to M/WBE participation requirements with 24% of the value of those awards made to certified M/WBE firms.

#### **Subcontract M/WBE Utilization**

M/WBE utilization with respect to approved subcontracts during the reporting period is demonstrated in Table 2 below. As shown, of the 455 approved subcontracts related to contracts subject to the program, 250 were awarded to M/WBE firms. The approved subcontracts awarded to M/WBEs amounted to approximately \$78 million and represent 55% of the value of all qualifying subcontracts. For more details, see Appendices – Tables E - F.

**Table 2 - FY 2020 Q1 - Subcontracts Utilization by Industry**

Industry/Size Group	M/WBE			Total	
	Count	Value	%	Count	Value
<b>Construction</b>	<b>161</b>	<b>\$52,119,205</b>	<b>52%</b>	<b>300</b>	<b>\$99,454,677</b>
Micro Purchase	35	\$417,068	48%	82	\$863,058
Small Purchase	56	\$2,835,702	57%	101	\$4,999,276
>\$100K, <=\$1M	62	\$21,331,353	65%	99	\$32,843,386
>\$1M, <=\$5M	6	\$11,885,082	46%	14	\$25,603,958
>\$5M, <=\$25M	2	\$15,650,000	45%	4	\$35,145,000
>\$25M	0	\$0	0%	0	\$0
<b>Professional Services</b>	<b>70</b>	<b>\$21,655,942</b>	<b>62%</b>	<b>122</b>	<b>\$34,937,376</b>
Micro Purchase	11	\$115,447	50%	27	\$230,062
Small Purchase	19	\$1,088,134	54%	38	\$2,004,603
>\$100K, <=\$1M	35	\$12,011,808	65%	49	\$18,594,646
>\$1M, <=\$5M	5	\$8,440,554	60%	8	\$14,108,065
>\$5M, <=\$25M	0	\$0	0%	0	\$0
>\$25M	0	\$0	0%	0	\$0
<b>Standard Services</b>	<b>19</b>	<b>\$4,490,014</b>	<b>61%</b>	<b>32</b>	<b>\$7,416,314</b>
Micro Purchase	4	\$78,500	76%	8	\$102,910
Small Purchase	8	\$460,365	63%	13	\$727,255
>\$100K, <=\$1M	7	\$3,951,148	86%	10	\$4,586,148
>\$1M, <=\$5M	0	\$0	0%	1	\$2,000,000
>\$5M, <=\$25M	0	\$0	0%	0	\$0
>\$25M	0	\$0	0%	0	\$0
<b>Total</b>	<b>250</b>	<b>\$78,265,161</b>	<b>55%</b>	<b>455</b>	<b>\$141,938,367</b>

## Waivers

A vendor that plans to submit a bid or proposal in response to a solicitation for a contract that is subject to M/WBE participation goals may seek to request a reduction in the goals by filing a waiver request with the contracting agency during the pre-bid or pre-proposal stage. The agency and MOCS then evaluate the extent to which the vendor’s business model and subcontracting history is consistent with this request. In order to qualify for a waiver, a vendor must show both the capacity to execute the contract with less subcontracting than projected and legitimate business reasons to do so. A vendor that receives a full waiver has demonstrated that they would be able to fully self-perform the contract without using subcontractors if awarded the contract. A vendor that obtains a partial waiver has demonstrated that they will subcontract at a lower amount than the participation goal established by the agency.

During the reporting period, vendors sought a total of 61 requests for waivers of the M/WBE participation requirements. Of those requests, 24 were denied, while 13 were approved as full waivers and 24 were approved as partial waivers, see Appendices – Table G. Since waivers may be granted only to vendors that demonstrate both the capacity to perform the prime contract without subcontracting and a prior contracting history of doing similar work without subcontracting, some of the waivers that were granted involved repeated requests from the same firms, as they sought multiple bidding opportunities. Thus, the 37 full and partial waivers were granted to a total of 26 individual firms. Waivers are determined during the pre-bid stage of the procurement.

During the reporting period, a total of 11 contracts were registered where a winning vendor obtained either a full or partial waiver of the total participation goal. For more details, see Appendices – Table H.

### **Large-Scale Procurement Approvals**

Prior to soliciting procurements with an anticipated value of over \$10 million, City agencies are required to seek MOCS approval to determine whether it is practicable to divide the proposed contract into smaller contracts and whether doing so would enhance competition among M/WBEs. During the reporting period, there were 27 registered contracts for which MOCS conducted large-scale procurement reviews. A full list is shown in Appendices Table I. The value of the 27 approved contracts shown in Appendices Table I is approximately \$429 million.

Approximately 97% of the value of the large-scale approvals in the first quarter of FY 2020 was either single indivisible projects or multiple sites. These approvals were for projects in which separate and smaller contracts would not enhance M/WBE opportunities. For more details, see Appendices – Table I.

### **Complaints, Modifications and Noncompliance**

There was one request for post-award modification during the reporting period. The prime contractor requested a modification of the M/WBE participation goals on a DOC asphalt restoration and rehabilitation contract. They claimed that they could not guarantee M/WBE subcontractor utilization due to the on-call nature of the services, and that the contract may not be utilized for its full value. DOC anticipates that the contract would be utilized for its full registered value, and that there will be sufficient subcontracting

opportunities that the vendor could utilize to meet their goal. MOCS denied the request for modification due to the lack of evidence of the vendor's good faith efforts, the time left on the contract, and the anticipated availability of M/WBE subcontracting opportunities.

There were four findings of noncompliance during the reporting period. The first of these involved a DDC contract for the construction of storm and sanitary sewers. The prime contractor agreed to meet the goal and retained an M/WBE firm to provide inspection services. However, DDC found that the resumes of inspectors lacked the appropriate training, educational, or job experience. The contractor retained another M/WBE firm and continued submitting inspector candidates to DDC. These were also denied due to insufficient qualifications, and DDC utilized in-house inspectors to cover the work. Additionally, the work was expedited and completed a year ahead of schedule. Due to the expedited time frame, and DDC's denial of the majority of inspector resumes submitted throughout the contract term, the prime contractor was unable to meet the participation goals. Due to the vendor's failure to submit a timely modification request and meet the overall M/WBE goal on the contract, DDC subsequently issued a letter of noncompliance to the contractor.

The second involved a DDC contract for the construction of storm sewers and appurtenances in Queens. The prime contractor fell short of the M/WBE goal requirements due to a scope change, the addition of hazardous soil removal. The prime contractor discovered the presence of hazardous soil during routine tests and was unable to locate a qualified M/WBE subcontractor to take on this work. DDC confirmed that hazardous soil removal is an area with low M/WBE availability. While the prime contractor attempted to utilize M/WBE vendors in other work areas, it was not enough to meet the overall goal. Due to the vendor's failure to submit a timely modification request and meet the overall M/WBE goal on the contract, DDC subsequently issued a letter of noncompliance to the contractor.

A third prime contractor fell short of their M/WBE subcontracting requirements on a DDC contract for the construction of storm and sanitary sewers and appurtenances in Staten Island. In this instance, the contractor nearly met their original M/WBE participation goal but fell approximately one percent short of the goal, in part due to a change in scope by DDC. Due to the vendor's failure to submit a timely modification request and meet the overall M/WBE goal on the contract, DDC issued a letter of noncompliance to the contractor.

Finally, a prime contractor working on a DDC contract for professional land surveying services did not meet their M/WBE subcontracting requirements. The prime contractor utilized M/WBE subcontractors for aerial mapping and land surveying services, but at a much lower amount compared to their original estimates. After the addition of a large change order, the contractor fell further behind in their M/WBE participation requirements. Due to the vendor's failure to submit a timely modification request and meet the overall M/WBE goal on the contract, DDC issued a letter of noncompliance to the contractor.